

Notice of Allowability

Application No.

09/964,662

Applicant(s)

ROTHSTEIN ET AL.

Examiner

Abdel A. Mohamed

Art Unit

1653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to preliminary amendment filed 6/6/03 and telephonic interview of 10/16/03.
2. ☒ The allowed claim(s) is/are 16 and 27-33.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.
5. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 4 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. <u>8</u> . |
| 5 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. <u>3</u> . | 6 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other <i>amended per S.F. Low</i> |

CHRISTOPHER S. F. LOW
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

DETAILED ACTION

ACKNOWLEDGMENT OF PRELIMINARY AMENDMENT, SEQUENCE LISTING, IDS, STATUS OF THE APPLICATION AND CLAIMS

1. The preliminary amendment filed 6/6/03, the sequence listing filed 5/8/03 and the Information Disclosure Statements (IDS) and Form PTO-1449 filed 9/28/01, respectively are acknowledged, entered and considered. This is a divisional of U.S. application Serial No. 09/340,736, filed 6/29/99, now U.S. Patent No. 6,489,446, which is a CIP of U.S. application Serial No. 08/911,364, filed 8/7/97, now U.S. Patent No. 5,969,106, which claims the benefit of U.S. provisional application Serial Nos. 60/023,522, filed 8/7/96. In view of Applicant's request, claims 1-15 and 17-26 have been canceled, claim 16 has been amended and claims 27-33 have been added. Thus, claims 16 and 27-33 are now pending in the application.

In regard to IDS filed 9/28/01 (Paper No. 3), in view of Applicant's request, the references cited therewith in Form PTO-1449 are not provided in the instant specification. However, as per Applicant's request, since the cited references were considered previously in the parent application Serial No. 09/340,736, pursuant to 37 CFR § 1.98(d), the references cited in Form PTO-1449 in this application have been considered and signed as requested by Applicant.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

3. Authorization for this examiner's amendment was given in a telephone interview with Stephen A. Bent on 10/16/03.

In the claims.

Claim 31, line 1, before "30" insert --claim--.

In the specifications.

CROSS REFERENCE TO RELATED APPLICATIONS

This application is a divisional of U.S. patent application serial No. 09/340,736, filled June 29, 1999, now U.S. Patent No. 6,489,446, which is a continuation-in-part of U.S. patent application serial No. 08/911,364, filed August 7, 1997, now U.S. patent No. 5,969,106, which, in turn is based on U.S. provisional patent application serial No. 60/023,522, filed August 7, 1996. The entire contents of these applications, including their specifications, claims and drawings, are incorporated herein by reference in their entirety.

The specification is amended to include the U.S. Patent No. of Serial No. 09/340,736.

REASONS FOR ALLOWANCE

4. The following is an examiner's statement of reasons for allowance: None of the prior art of record either singularly or in combination teach or suggest a cosmetic material comprising an amino acid sequence consisting of a portion of the amino acid sequence as set forth in SEQ ID NO:1 or SEQ ID NOS:2 and 9-11 that comprises at least three beta-sheet/beta-turn structures and at least one amino acid residue that participates in cross-linking, and that is not a naturally occurring fibrous protein in the manner claimed in claims 16 and 27-33.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

CONCLUSION AND FUTURE CORRESPONDENCE

5. Claims 16 and 27-33 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abdel A. Mohamed whose telephone number is (703) 308-3966. The examiner can normally be reached on Monday through Friday from 7:30 a.m. to 5:00 p.m. The examiner can also be reached on alternate Fridays.

Application/Control Number: 09/964,662
Art Unit: 1653

Page 5

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low, can be reached on (703) 308-2923. The appropriate fax phone number for the organization where this application or proceeding is assigned is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

 Mohamed/AAM

October 20, 2003


CHRISTOPHER S. F. LOW
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600